

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

PEDRO PABLO FUENTES,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-23-355-J
)	
STEVEN HARPE,)	
)	
Respondent.)	

ORDER

Petitioner, a state prisoner appearing pro se, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1]. The matter was referred to United States Magistrate Judge Shon T. Erwin for initial proceedings consistent with 28 U.S.C. § 636. [Doc. No. 5]. On June 2, 2023, Judge Erwin issued a Report and Recommendation recommending that the Petition for Writ of Habeas Corpus be dismissed in its entirety without prejudice because it includes exhausted and unexhausted claims.¹ See [Doc. No. 9]. Petitioner was advised of his right to object to the Report and Recommendation by June 19, 2023. No objection has been filed. Petitioner has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. See *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

Accordingly, the Court ADOPTS the Report and Recommendation [Doc. No. 9] and DISMISSES Petitioner's Petition for a Writ of Habeas Corpus without prejudice. Additionally, a

¹ Judge Erwin also recommended that if Petitioner files an amended petition including only the exhausted claim, the Court grant the amendment and allow the case to proceed on that claim. Petitioner has not filed an amended petition.

certificate of appealability is DENIED, as the Court concludes Petitioner has not made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c).

IT IS SO ORDERED this 5th day of July, 2023.

A handwritten signature in blue ink, appearing to read "B.M.J.", is written above a horizontal line.

BERNARD M. JONES
UNITED STATES DISTRICT JUDGE